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OFFICE OF PETITIONS

In re Patent of Ivarie et al. : DECISION ON REQUEST
Patent No. 7,521,591 : FOR
Issue Date: April 21, 2009 : RECONSIDERATION OF
Application No. 10/696,671 : PATENT TERM ADJUSTMENT
Filed: October 28, 2003 : and
Docket No.021396-000203US. : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the reconsideration petition filed on October 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two hundred seventeen (217) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred seventeen(217) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 29, 2006 and ends on February 20, 2007, the day before the RCE was filed, and is 115 (not 116) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 216, not 217 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Change of Correspondence Address filed March 10, 2009 was not entered and made of record because the individual who submitted it is not an attorney of record. A courtesy copy of this decision will be mailed to the address listed on the petition. Until appropriate change of address/power of attorney documents are filed, all future correspondence will be mailed solely to the address of record.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred sixteen (216) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: KYLE YESLAND
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,521,591 B2

DATED : April 21, 2009

DRAFT

INVENTOR(S) : Ivarie et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 101 days

Delete the phrase "by 101 days" and insert -- by 216 days--